

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**SIVYER STEEL CORPORATION**  
**A Mattered Company**

Facility ID# 82-02-004  
Scott County, IA

ADMINISTRATIVE CONSENT ORDER  
NO. 2008-AQ- 34

TO: Sivy Steel Corporation  
CT Corporation, Registered Agent  
2222 Grand Ave  
Des Moines, IA 50312

Sivy Steel Corporation  
Attn: Art Gibeaut, President  
225 South 33<sup>rd</sup> Street  
Bettendorf, IA 52722

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Sivy Steel Corporation (Sivy Steel) for the purpose of resolving air quality violations at its steel foundry site located in Bettendorf, Iowa. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Dennis Thielen, Env. Specialist Senior  
Air Quality Division  
7900 Hickman Road, Suite 1  
Urbandale, Iowa 50322  
Phone: 515/281-4899

**Relating to legal requirements:**

Anne Preziosi, Attorney for the DNR  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 1  
Urbandale, Iowa 50322  
Phone: 515/281-6243

**Payment of penalty to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

**II. JURISDICTION**

Pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules

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adopted pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties, the DNR has jurisdiction to issue this administrative consent order.

**III. STATEMENT OF FACTS**

**PAST ENFORCEMENT HISTORY**

1. On June 12, 2000, DNR issued Sivyer Steel a Notice of Violation letter for installing emission units prior to obtaining construction permits.
2. On August 11, 2000, DNR issued Sivyer Steel a Notice of Violation for failure to maintain control equipment.
3. On April 23, 2001, DNR issued Sivyer Steel Administrative Order 2001-AQ-11 for the above violations.

**CURRENT ENFORCEMENT HISTORY**

4. Sivyer Steel is located at 225 South 33<sup>rd</sup> Street, Bettendorf, Iowa. Sivyer Steel produces high quality custom casing from 5 lbs to 20,000 lbs for the construction, mining, railroad, transportation, pump and valve, power generation, steel, aerospace, agriculture, demolition, scrap and solid waste recycling industries. Sources at this facility include electric arc furnaces, casting cleaners, sand conveyors, and elevators.

5. On April 24-26, 2007, Sivyer Steel conducted emissions test for Baghouse Emission Point 3 (EP3) and Emission Point 4 (EP4). During these tests, Anthony Bigger, DNR Air Quality Bureau, observed large amounts of particulate blowing out of open drums beneath the baghouses and socks leading out of the baghouses. The drums used to capture the fugitive dust did not contain bags or any other mechanism to control escaping fugitive dust. Dust was blowing out of full drums while the drums were still underneath the baghouses and during transportation to the disposal site. This caused a substantial amount of fugitive dust to collect around the site and blow across property lines.

6. On April 27, 2007, Sivyer Steel was issued a Notice of Violation letter for failure to maintain, operate, and control equipment in a manner consistent with good practice for minimizing emissions and for fugitive dust violations.

7. On June 7, 2007, DNR received Sivyer Steel's results from the testing conducted on April 24-26, 2007. Results of those tests were as follows:

| <b>Emission Point</b> | <b>Permit #</b> | <b>Pollutant</b>   | <b>Result</b> | <b>Limit</b> |
|-----------------------|-----------------|--------------------|---------------|--------------|
| EP 3, Baghouse        | 74-A-154-S2     | Particulate Matter | 1.21 lb/hr    | 0.94 lb/hr   |
| EP 3, Baghouse        | 74-A-154-S2     | PM10               | 1.21 lb/hr    | 0.94 lb/hr   |

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|               |             |                    |            |            |
|---------------|-------------|--------------------|------------|------------|
| EP 4 Baghouse | 76-A-622-S2 | Particulate Matter | 0.93 lb/hr | 0.67 lb/hr |
| EP 4 Baghouse | 76-A-622-S2 | PM10               | 0.93 lb/hr | 0.67 lb/hr |

8. On June 24, 2007, Anthony Bigger returned to the site. Sivyier Steel had taken steps to mitigate the amount of fugitive dust escaping from its baghouse drums and socks.

9. On July 11, 2007, Mark Stone, DNR Air Quality Bureau, sent Sivyier Steel a Notice of Violation letter for failure to stay within its particulate permit limits for Baghouse EP3 and Baghouse EP4.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-34 relating to air quality.

2. 567 IAC 22.3(3) provides that a construction permit may be issued subject to conditions which shall be specified in writing, and that such conditions may include compliance testing requirements. Sivyier Steel failed to demonstrate compliance with conditions listed in two of the facility's construction permits.

a. Condition 10 of the construction permit for EP3, Baghouse includes emission limits for particulate matter and PM 10. During April 24-26, 2007 tests, Sivyier Steel failed to demonstrate compliance with the permitted emission limits for particulate matter and PM 10 stated in Condition 10. EP3, Baghouse was stack tested and the results exceeded the particulate matter and PM 10 limits for the 3 run average.

b. Condition 10 of the construction permit for EP4, Baghouse includes emission limits for particulate matter and PM10. During April 24-26, 2007 tests, Sivyier Steel failed to demonstrate compliance with the permitted emission limits for particulate matter and PM 10 stated in Condition 10. EP4, Baghouse was stack tested and the results exceeded the particulate matter and PM 10 limits for the 3 run average.

The above-facts indicate a violation of this provision.

3. 567 IAC 24.2(1) provides that any owner or operator of any equipment or control equipment shall maintain and operate the equipment at all times in a manner consistent with good practice for minimizing emissions. During testing on April 24-26, 2007, Anthony Bigger, DNR Air Quality, observed large amounts of particulate blowing out the bottom of open drums and socks leading out of the base of the baghouses. By not having a mechanism in place to control this dust, Sivyier Steel did not maintain good practice consistent with minimizing emissions. The above-facts indicate a violation of this provision.

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**V. ORDER**

THEREFORE, the DNR orders and Sivyer Steel agrees to do the following:

1. By October 1, 2008, Sivyer Steel shall schedule retesting for Emission Point 3 and Emission Point 4 to demonstrate compliance with current permit limits, or submit permit modifications for 74-A-154-S2 and 76-A-222-S2 including air quality modeling showing that the proposed modifications are protective of National Ambient Air Quality Standards.
2. Sivyer Steel shall pay a penalty of \$7,000.00 within 30 days of the date from which the Director signs this administrative consent order.

**VI. PENALTY**

1. Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for each of the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.
2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with an administrative penalty of \$7,000.00. The administrative penalty is determined as follows:

Economic Benefit - Sivyer Steel saved time and money by failing to properly maintain and control its equipment. Based on the above considerations, \$1,000.00 is assessed for this factor.

Gravity of the Violation - One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has determined at this time the most equitable and efficient means of resolving the matter is through an administrative consent order. Sivyer Steel exceeded the particulate matter and PM10 emission standard by over 30% on two of its sources. The PM10 limit is set to protect the National Ambient Air Quality Standards. Excess emissions may contribute to adverse health impacts in the surrounding areas. Based on the above considerations, \$3,000.00 is assessed for this factor.

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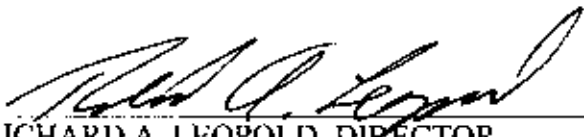
Culpability – Sivyver Steel has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. Additionally, Sivyver Steel has neither attempted to retest EP3 or EP4, nor proposed other solutions to resolve these violations since its April 24-26, 2007 violations. Based on the above considerations, \$3,000.00 is assessed for this factor.

**VII. WAIVER OF APPEAL RIGHTS**

This administrative consent order is entered into knowingly and with the consent of Sivyver Steel. For that reason Sivyver Steel waives its rights to appeal this administrative consent order or any part thereof.

**VIII. NONCOMPLIANCE**

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order. DNR reserves the right to bring enforcement action, including penalties, or to request that the attorney general initiate legal action to address other violations not described in Section "IV. Conclusions of Law" of this administrative consent order but which may arise from the facts summarized in Section "III. Statement of Facts" of this administrative consent order. DNR specifically reserves the right to pursue enforcement action, including penalties, for any current violations not specifically cited in this administrative consent order.

  
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RICHARD A. LEOPOLD, DIRECTOR  
Iowa Department of Natural Resources

Dated this 17 day of  
Sept., 2008.

  
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AUTHORIZED AGENT  
Sivyver Steel Corporation

Dated this 10<sup>TH</sup> day of  
SEPTEMBER, 2008.

Facility # 82-02-004; Anne Preziosi; Air Quality; Dennis Thielen; VII.B.2.c.(1) and VII.C.2